

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PEGGY GRAVES and BENJAMIN	:	
GRAVES, wife and husband,	:	
Plaintiffs,	:	
	:	
v.	:	Civil No. 2:20-cv-00786-JMG
	:	
USAA GENERAL INDEMNITY	:	
COMPANY,	:	
Defendant.	:	

ORDER GRANTING DEFENDANT’S MOTION TO DISMISS

AND NOW, this 16th day of June, 2020, upon consideration of the Complaint (Doc. 1), Defendant’s Motion to Dismiss Count II of the Complaint (Doc. 7), Plaintiffs’ Response to Defendant’s Motion to Dismiss (Doc. 8), Defendants’ Reply to Plaintiffs’ Response to Motion to Dismiss (Doc. 9), and of the Order dated February 25, 2020, reassigning the above-captioned action to the Undersigned, *see* Doc. 3, **IT IS HEREBY ORDERED THAT:**

Defendant’s Motions to Dismiss Count II of the Complaint is GRANTED.

Count II is dismissed without prejudice. The Court grants Plaintiff leave to file an amended complaint within thirty (30) days of the entry of this Order.¹

BY THE COURT:

/s/ John M. Gallagher
JOHN M. GALLAGHER
United States District Court Judge

¹ When a plaintiff fails to state a claim for relief, the Court will permit a curative amendment, so long as it would not be inequitable or futile. Philips v. Cty. of Allegheny, 515 F.3d 224, 245 (3d Cir. 2008).